



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,963	04/18/2001	Marcia L. Peters	RSW920010014US1	8479

7590 11/30/2005

Esther H. Chong, Esquire
Synnestvedt & Lechner LLP
2600 Aramark Tower
1101 Market Street
Philadelphia, PA 19107-2950

EXAMINER

CHAMPAGNE, DONALD

ART UNIT	PAPER NUMBER
----------	--------------

3622

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/836,963

Applicant(s)

PETERS ET AL.

Examiner

Donald L. Champagne

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8 July 2005 has been entered.

Response to Arguments

2. Applicant's arguments filed with an amendment on 18 January 2004 have been fully considered but they are not persuasive. The arguments are addressed at para. 7 and 8. Review of the specification also identified a limitation not taught or suggested by the prior art made of record (para. 12 and 13).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-23 are rejected under 35 U.S.C. 102(e) as being obvious over Carney et al. (US006408278B1) in view of Francella (*Convenience Store News*, 11 January 1999).
5. Carney et al. teaches (independent claims 1, 9 and 18) a method, system and computer program product for providing targeted advertising to a group of individuals, the method comprising the steps of: collecting group data from communication-enabled wireless communication devices present in an advertising area (col. 6 lines 49-56 and col. 7 lines 3-5); selecting *dynamically updateable* advertisements (col. 1 lines 30-35 and 56-57), which reads on advertisements based on the collected group data for communication-enabled wireless devices present in the advertising area at the time of display, and displaying the

Art Unit: 3622

selected advertisements on an electronic display device located in the advertising area to provide targeted advertising (col. 1 lines 45-61).

6. Carney et al. does not teach passively collecting group data. Francella teaches an RFID tag used to passively collect group data. Because Francella teaches that said tags have become cheap enough to be given away/disposable (p. 2/5, as marked) and are useful for gathering demographic data (p. 3/5, as marked), it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add the teachings of Francella to those of Carney et al. Furthermore, Carney et al. teaches giving away shopping bags (col. 6 lines 66-67), for which it would have been obvious to add a disposable RFID tag. Alternatively, it would have been obvious to give away the loyalty cards with RFID tags taught by Francolin.
7. Applicant argues (p. 11, top) that nothing in Carney et al. teaches or suggests the pulling of data from communication-enabled wireless devices. That is true, but irrelevant. The rejection (para. 6 above) is based on a teaching of passive acquisition (pulling) in Francella, not in Carney et al.
8. Applicant argues (p. 11, beginning of last para.) that nothing in Francella or Carney et al. teaches or suggests the claimed display of advertising content by taking into consideration the users who are in the area at the time the advertising is displayed ("selecting advertisements to be displayed based on the collected group data for communication-enabled wireless devices present in the advertising area at the time of display"). Applicant is in error. Carney et al. teaches *dynamically updateable* advertisements (para. 5 above).
9. Carney et al. also teaches at the citations given above claims 2, 4-7, 10, 12-14, 19 and 21-23.
10. Carney et al. also teaches: claim 8 (col. 5 lines 57-65); claim 15 (col. 3 lines 55-67 and col. 4 lines 10-12, where *server computer 20* is the remote data collector and advertisement selector); and claims 16 and 17 (col. 4 lines 23-29).
11. Carney et al. does not teach Bluetooth technology. Because Bluetooth technology was a well-known means at the time of the invention for facilitating communication among wireless devices, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to add Bluetooth technology to the teachings of Carney et al.

Suggestion of Allowable Subject Matter

12. The prior art made of record does not teach or suggest the use of a PDA as the wireless communication device. Hence, the present rejection could be overcome by limiting the claims to a PDA.
13. Applicant is cautioned that an allowance could not be considered until this or any other amendment was searched.

Conclusion

14. This is a continuation of applicant's earlier Application No. 09836963. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
15. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L Champagne whose telephone number is 571-272-6717. The examiner can normally be reached from 6:30 AM to 5 PM ET, Monday to Thursday. The examiner can also be contacted by e-mail at donald.champagne@uspto.gov, and *informal* fax communications (i.e., communications not to be made of record) may be sent directly to the examiner at 571-273-6717.
17. The examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3622

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).
19. **AFTER FINAL PRACTICE** – Consistent with MPEP § 706.07(f) and 713.09, prosecution generally ends with the final rejection. Examiner will grant an interview after final only when applicant presents compelling evidence that “disposal or clarification for appeal may be accomplished with only nominal further consideration” (MPEP § 713.09). The burden is on applicant to demonstrate this requirement, preferably in no more than 25 words. Amendments are entered after final only when the amendments will clearly simplify issues, or put the case into condition for allowance, clearly and without additional search or more than nominal consideration.
20. Applicant may have after final arguments considered and amendments entered by filing an RCE.
21. **ABANDONMENT** – If examiner cannot by telephone verify applicant’s intent to continue prosecution, the application is subject to abandonment six months after mailing of the last Office action. The agent, attorney or applicant point of contact is responsible for assuring that the Office has their telephone number. Agents and attorneys may verify their registration information including telephone number at the Office’s web site, www.uspto.gov. At the top of the home page, click on Site Index. Then click on Agent & Attorney Roster in the alphabetic list, and search for your registration by your name or number.

DONALD L. CHAMPAGNE
PRIMARY EXAMINER



Donald L. Champagne
Primary Examiner
Art Unit 3622

22 November 2005